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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,073	02/11/2004	Steven L. Seidner	51713/TJD/P737	2104
23363	7590	09/29/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			STORMER, RUSSELL D	
			ART UNIT	PAPER NUMBER
			3617	
DATE MAILED: 09/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,073

Applicant(s)

SEIDNER, STEVEN L.

Examiner

Russell D. Stormer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the design element which "is a shaped plate" as set forth in claim 14 must be shown or the feature canceled from the claim.

The elements are shown to be in the shape of V's, or U's, but not in any shape that is normally considered to be the shape of a plate, which is circular or disc-shaped.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. There is no description of the "circumferential subsection" of the base section as set forth in claims 1, 16, and 17.

See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Objections

3. Claims 16 and 17 are objected to because of the following informalities:

In line 6 of claim 17, the term "are" is not appropriate since the "means for altering" has not been set forth as plural, and includes "at least one" design element.

Applicant has allegedly amended claim 17 to remove this objection, but still has not overcome the objection.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1, 2, 4-14, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of claims 1, 16, and 17, the "circumferential subsection" is inferentially set forth, and it is not clear where on the base design it would be disposed, or what it would comprise.

In claim 14, the term "a shaped plate" is indefinite because it does not clearly define the shape of the design element. While the shape of a plate may include that of a dinner plate, it may also be a smooth, flat piece of metal, among other definitions. Using this definition, as provided by Applicant, the design element might have a flat feature, but the claim is indefinite as to what a shaped plate would encompass. Clearly, since several definitions of a "shape plate" may be provided, the claim is vague and indefinite as to what shape is being claimed.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 9, and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yoshida.

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The portion of the wheel blank covered by the design element 30 extends over only a circumferential subsection of the wheel blank since it covers only the outer periphery of the wheel blank and the circumferential subsection is not defined.

8. Claims 1, 2, 4-9, 13, 16, and 17 rejected under 35 U.S.C. 102(b) as being anticipated by Smith (newly cited)

Each of the design elements 60, 76 is attached to the outer peripheral portion of the wheel blank 14, 16, 30, and covers only a portion of the wheel base, this portion considered to be a circumferential subsection.

The design elements 60, 76 would inherently have a different color, finish, and texture than the wheel blank 14, 16, 30, at least because the portion 30 of the wheel blank is made of plastic.

9. Claims 1, 2, 5-8, 13, 14, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hutchins (newly cited).

The design elements are attached to the outer periphery of the wheel blank at least in part by the points 47, and would inherently have a different texture, color, or finish since they may be embossed and finished in any suitable manner. See lines 53-57 of column 2.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith.

The use of adhesives and threadlockers has long been known in various mechanical arts for permanently securing screws, or for reducing the chances that a screw will back out of a hole by accident due to vibration, etc. Applicant acknowledges as much in the specification by naming the old and well-known product LOCTITE as one possible threadlocker which can be used. Therefore, it would have been obvious to use an adhesive or threadlocker to better secure the threaded portions of the spoke nipples 50 of Smith to prevent inadvertent loosening of the design elements.

To make the design elements of aluminum would have been obvious in order to reduce their weight as is well-known in the art, or to achieve a certain appearance.

12. Claims 4, 6, 7, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchins.

To use aluminum instead of steel for the design elements 28 and to color or finish them differently than the wheel blank would have been obvious as mechanical

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and design expedients in order to reduce the weight of the elements and to provide visually unique designs to appeal to those using the design elements.

Response to Arguments

13. Applicant's arguments with respect to claims 1, 2, 4-14, 16, and 17 have been considered but are moot in view of the new grounds of rejection.

The reasoning for maintaining the rejection over Yoshida is set forth in paragraph 7 above.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show additional wheels and design elements.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

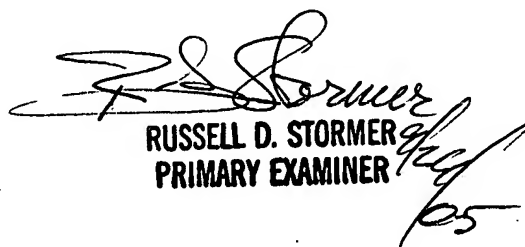
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RUSSELL D. STORMER
PRIMARY EXAMINER